

Attorney Docket #502902-238PUS

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Herbert BRUNNER et al.
Serial No.: 10/574,026
Filing Date: March 23, 2006
For: White-Emitting LED Having a Defined Color
Temperature

DECLARATION UNDER 37 C.F.R. §1.131

We, Herbert Brunner, Tim Fiedler, Frank Jermann, Jörg STRAUß, and Martin Zachau, the joint inventors named in U.S. Patent Application Serial Number 10/574,026, declare as follows:

1. This declaration is submitted in support of U.S. Patent Application Serial Number 10/574,026 and, specifically to establish an invention date prior to September 23, 2003, the earliest U.S. effective filing date of published U.S. Patent Publication No. 2005/0205845 of Deising et al., one of the references cited by the Examiner in rejecting pending claims under 35 U.S.C. §103(a).
2. The subject patent application is a U.S. national phase application of International application number PCT/DE04/02138 filed September 24, 2004, which claims priority from German Patent Application No. DE 103 44 331.2 filed September 24, 2003, which is the constructive reduction to practice date of the subject invention.
3. A certified copy of German Patent Application No. DE 103 44 331.2 has been previously submitted to the Patent Office in connection with the present application. To further perfect the priority claim, we enclose herewith an English translation of German Patent Application No. DE 103 44 331.2 (Exhibit 1).

4. We have reviewed and understand the subject application, including the claims originally filed, and any and all claim amendments made thereafter (the "Claimed Invention").

Conception

5. From the period prior to September 23, 2003 until the German priority Patent Application No. DE 103 44 331.2 was filed on September 24, 2003, the inventors were, in conjunction with their attorneys, diligently preparing the subject application for filing the German priority Patent Application No. DE 103 44 331.2. In fact, the German priority Patent Application No. DE 103 44 331.2 was filed September 24, 2003, which is only one day after the critical date September 23, 2003 of Delsing et al. cited by the Examiner.

6. We conceived the Claimed Invention prior to September 23, 2003 (the reference date of Delsing et al.), as evidenced by the following internal documents of OSRAM GMBH ("OSRAM"):

Exhibit 2 is a Phosphor Test Log, Attempt No. TF 119/2003 (1 page).

Exhibit 3 is an English translation of Exhibit 2.

Exhibit 4 is a Phosphor Test Log, Attempt No. TF 119/2003 (3 pages).

Exhibit 5 is an English translation of Exhibit 4.

Exhibit 6 is a graph obtained with an x-ray diffractionmeter.

Exhibit 7 is an English translation of Exhibit 6.

Exhibit 8 is a Notification of Invention.

Exhibit 9 is an English translation of Exhibit 8.

12. We declare that all statements made herein of our own knowledge are true; that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this patent application and any patent resulting therefrom.

Date: 31st of March, 2010By: Herbert Brunner

Herbert Brunner

Date: _____

By: _____

Tim Fiedler

Date: _____

By: _____

Frank Jermann

Date: _____

By: _____

Jörg STRAUß

Date: _____

By: _____

Martin Zaebau